

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LOCAL 363, UNITED ELECTRICAL
WORKERS OF AMERICA, IUJAT, and
UNITED WELFARE FUND – SECURITY
DIVISION, and the TRUSTEES THEREOF,

Petitioners,
-against-

J. UNITED ELECTRICAL CONTRACTING
CORP., a/k/a J. UNITED ELECTRICAL
CONTRACTING, a/k/a J. UNITED
ELECTRICAL CORP.,

Respondent.

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NOT FOR PUBLICATION
MEMORANDUM & ORDER
22-CV-6864 (CBA) (MMH)

AMON, United States District Judge:

BACKGROUND

On November 9, 2022, Local 363, United Electrical Workers of America, IUJAT, (the “Union”) and United Welfare Fund – Security Division (the “Fund”) and the Trustees thereof (“Trustees”) (collectively, “Petitioners”) commenced this action against respondent J. United Electrical Contracting Corp., also known as “J. United Electrical Contracting” and “J. United Electrical Corp.” (“Respondent”). (ECF Docket Entry (“D.E.”) # 1.) Petitioners commenced this action to enforce an arbitration award based on Respondent’s failure to remit required benefit contributions and union dues in violation of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq. (“ERISA”), the Labor Management Relations Act, 29 U.S.C. § 141 et seq. (“LMRA”), and the Federal Arbitration Act, 9 U.S.C. § 1. (See generally id.) On February 10, 2023, the Clerk of Court noted the default of Respondent after it had failed to appear in or otherwise defend the action. (See D.E. # 8.) Petitioners subsequently filed the instant motion for default judgment. (D.E. # 10.) I referred the motion to the Honorable Marcia M. Henry, United

States Magistrate Judge, for report and recommendation (“R&R”). (Text Order dated Apr. 4, 2023.)

On March 15, 2024, Magistrate Judge Henry issued her R&R, recommending that the Court (1) treat Petitioners’ motion to confirm the arbitration award as an unopposed motion for summary judgment, (2) grant Petitioners’ motion to confirm the arbitration award, and (3) enter a judgment in favor of Petitioners in the amount of \$3,319.23 plus pre-judgment interest at the rate of 18% per annum from June 14, 2022, the date of the arbitration award, through the date of judgment, and post-judgment interest from the date of judgment at the rate set forth in 28 U.S.C. § 1961. (R&R 6-10.) With respect to Petitioners’ request for \$1,500 in attorneys’ fees, Magistrate Judge Henry noted that the Arbitrator had not included a sum certain for attorneys’ fees in the arbitration award and Petitioners had failed to provide adequate documentary evidence to support their request. (Id. 11-12.) Accordingly, Magistrate Judge Henry recommended that Petitioners’ request for attorney’s fees be denied without prejudice. (Id. 12-13.) As to costs, Petitioners seek \$1,513, including \$600 in arbitration costs, the \$402 court filing fee, and \$511 for service of process. (Id. 13.) Magistrate Judge Henry recommended that the Court grant \$913 for the court filing fee and service of process but deny the request for arbitration costs without prejudice due to petitioners’ failure to submit evidence they had paid the \$600 or establish that they are entitled to the entire fee. (Id. 13-14.)

DISCUSSION

No party has objected to the R&R, and the time for doing so has passed. When deciding whether to adopt an R&R, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). To accept those portions of the report and recommendation to which no timely objection has been made, “a

district court need only satisfy itself that there is no clear error on the face of the record.” Jarvis v. N. Am. Globex Fund, L.P., 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (quoting Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003)).

I have reviewed the record and, finding no clear error, I adopt Magistrate Judge Henry’s R&R in its entirety. Accordingly, I GRANT in part and DENY in part Petitioners’ motion for default judgment. The Clerk of Court is directed to enter judgment against Respondent for (1) \$3,319.23, plus pre-judgment interest at 18 percent per annum (\$1.64 per day) from June 14, 2022 until entry of judgment and post-judgment interest at the statutory rate set forth in 28 U.S.C. § 1961 and (2) \$913 in costs. Petitioners’ request for attorneys’ fees and arbitration costs is denied without prejudice, with leave to renew within 30 days of this order.

SO ORDERED.

s/Catol Bagley Amon

Dated: March 29, 2024
Brooklyn, New York

Carol Bagley Amon
United States District Judge